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ABSTRACT

This testimony about how federal requirements affect local school districts focuses on three major issues: (1) the major federal requirements that affect school districts; (2) the issues school districts face in implementing these requirements; and (3) recent initiatives by the Congress and the Department of Education (DOE) to provide flexibility to school districts. To obtain information on the impact of federal requirements, the General Accounting Office (GAO) interviewed officials from 87 school districts, located primarily in 3 states--Massachusetts, Pennsylvania, and Louisiana. The GAO also interviewed representatives from federal and state agencies and from 15 major education associations. In addition, the GAO analyzed federal laws, regulations, and program guidance, as well as district and state documents and data from the DOE. The study focused on the 36 major federal programs and mandates that school district staff, education experts, and the literature identified as having a major impact. School districts are subject to a large number and a wide variety of federal requirements that reflect a variety of purposes and goals.(DFR)

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ELEMENTARY AND SECONDARY EDUCATION

Flexibility Initiatives Do Not Address Districts' Key Concerns About Federal Requirements

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Elementary and Secondary Education: Flexibility Initiatives Do Not Address Districts' Key Concerns About Federal Requirements

Mr. Chairman and Members of the Committee:

I am pleased to have the opportunity to summarize our report on how federal requirements affect local school districts.[1] This study focused on three major issues that I will discuss today: (1) the major federal requirements that affect school districts; (2) the issues school districts face in implementing these requirements; and (3) recent initiatives by the Congress and the Department of Education to provide flexibility to school districts.

Deteriorating school buildings across the country, unfavorable results on international comparisons of student achievement, and the accelerating pace of technology growth have heightened our national interest in the success of America's students and schools. In the past, concerns like these have often been met with increased federal and state involvement and funding, leading to new programs or additional requirements within existing programs. Some educators and analysts have been voicing increasing dissatisfaction with this way of addressing schools' problems. Instead, they have suggested taking the opposite approach and lifting or easing existing federal requirements. Others are hesitant to adopt this strategy, however, because they are concerned that important objectives such as financial accountability may be sacrificed.

To obtain information on the impact of federal requirements, we interviewed officials from 87 school districts, located primarily in 3 states—Massachusetts, Pennsylvania, and Louisiana[2]. We also interviewed representatives from federal and state agencies and from 15 major education associations. In addition, we analyzed federal laws, regulations, and program guidance, as well as district and state documents and data from the Department of Education. Our study focused on the 36 major federal programs and mandates that school district staff, education experts, and the literature identified as having a major impact. These requirements include not only major education programs, but also other areas such as food service and environmental requirements.

In summary, school districts are subject to a large number and a wide variety of federal requirements that reflect a variety of purposes and goals–such as ensuring students' health and safety, helping students that have particular disadvantages, and improving educational quality in key

[1] *Elementary and Secondary Education: Flexibility Initiatives Do Not Address Districts' Key Concerns About Federal Requirements*, GAO/HEHS-98-232, Sept. 30, 1998.

[2] We selected these states to provide diversity in population demographics, reliance on federal, state and local funding, use of federal waivers, and other characteristics.

subject areas. Although some individuals may believe that federal requirements are not accompanied by federal funds, the majority of the programs and legislative mandates we identified carried some federal dollars. This federal funding is often distributed to school districts through the states, which frequently place additional requirements on districts' administration of federal programs.

Both federal and state requirements can create implementation issues that affect how school districts plan, fund, and operate their educational programs. Just obtaining sufficient information about federal requirements can be a challenging task for district administrators, making some districts reluctant to change long-established practices in favor of new educational initiatives. District officials expressed concern about the limited federal financial support in meeting federal requirements, despite their general agreement with the underlying goals. School district officials also told us that certain federal requirements create logistical and management challenges in operating their educational programs.

The multiplicity and complexity of these implementation issues make them difficult to address, especially because it is frequently those requirements that are often viewed as very beneficial–such as environmental protection–that give rise to many implementation concerns. District staff reported receiving little assistance from recent federal initiatives that have attempted to provide more flexibility. For example, although the Department of Education can grant waivers (temporary exemptions from certain federal regulations), waivers are not available for many key requirements such as those of the Individuals with Disabilities Education Act (IDEA). Similarly, Congress passed legislation that allows districts (with the state's permission) to shift a portion of their funds across certain federal programs. However, many states do not allow districts to use this provision, and the amount of funding that can be covered is generally very small. As currently structured, federal flexibility mechanisms are not well-positioned to address the concerns identified by the districts we interviewed; however, any new initiatives would also have to balance the interests of school districts and the larger purposes reflected in many pieces of federal legislation.

School Districts Subject To Federal Requirements In A Variety Of Areas

The major federal requirements facing school districts reflect a wide range of program objectives and policy goals; are often accompanied by some financial assistance; and are compounded by the addition of state and local requirements.

Federal Requirements Have a Variety of Purposes and Goals

Many people think of school districts only as educators—and of course teaching children is their fundamental mission. However, in addition to their primary function as educators, school districts also serve in other roles. For example, in addition to operating classrooms, schools operate restaurants—most serving lunch and many serving breakfast. In one rural school district we visited, the single school cafeteria serves lunch to over 1,000 K-12 students each day—probably more than any other restaurant in the area. School districts are also employers of teachers, administrative and custodial staff. School districts manage one or more public buildings, which may be used by the community for voting facilities, adult education, or recreational activities.

In each of these roles, school districts are subject to federal requirements designed to accomplish various public policy goals. As educators, for example, districts are required to provide a free, appropriate public education to students with disabilities and to follow federal requirements in accounting for federal funds they receive. As food service providers, school districts that choose to participate in federally-funded school lunch and breakfast programs receive cash and commodity support; in return, they must provide free and reduced-price meals to needy children and serve meals that meet federal nutrition standards. As managers of public facilities, districts must abide by federal environmental requirements and must ensure that new buildings (and some existing ones) comply with requirements to ensure accessibility for persons with disabilities. The large number of federal education programs, combined with federal labor laws, environmental requirements, and other mandates, creates a body of requirements that affect school districts. These federal requirements are directed at a wide range of fiscal concerns, policy goals, and program objectives—such as ensuring students' safety and health, providing equal educational opportunity, and improving educational quality in areas of economic importance. Table 1 shows several federal objectives and examples of programs, mandates, and requirements that are designed to achieve these goals.

Table 1: Programs and Mandates Designed to Achieve Variety of Federal Objectives

Objective	Example of Program or Requirement
Ensure safety and health	To guard against exposure to harmful asbestos fibers, the Asbestos Hazard Emergency Response Act (AHERA) requires school districts to inspect schools for asbestos and to draw up an asbestos management plan that identifies where asbestos is located in the schools.
	To protect groundwater from contamination, EPA requires owners (including school districts) of certain underground storage tanks (USTs) to upgrade the tanks to meet new standards for spill protection and corrosion.
Ensuring equal educational opportunity	Title I of the Elementary and Secondary Education Act established a program that gives districts funds to help students at risk.
	The Stewart B. McKinney Homeless Assistance Act provides funding to help states and districts educate homeless children
Protect and promote civil rights	The Individuals with Disabilities Education Act (IDEA) establishes the right of students with disabilities to receive a free appropriate public education.
Improve educational areas with special importance	The Technology for Education program provides money for technology upgrades in schools.
Ensure the fiscal integrity of federal funds	Federal programs such as Title I include financial accountability measures that restrict how districts spend federal funds and limit the amount school districts can carry over from one year to the next.
	The Tax Reform Act of 1986 limited school districts' ability to earn higher rates of interest on the proceeds of the bonds they issue under their tax-exempt status.

Federal Funding Accompanies Many of the Major Federal Requirements

Although some individuals believe that federal requirements are not accompanied by federal dollars, the majority of the major federal programs or legislative mandates we identified carried some federal funding. For example, in fiscal year 2000 the Bilingual Education program will provide about $248 million to help school districts carry out their obligation to ensure that students with limited English proficiency have meaningful access to education,[3] and in fiscal year 2000 programs under the Individuals with Disabilities Education Act (IDEA) will provide about $5.8 billion to help states and districts ensure that students with disabilities receive a free and appropriate public education. Although detailed information on the costs associated with complying with federal mandates or implementing federal programs is often unavailable, it is clear that for several major programs, federal financial contributions do not fully fund the activities these programs support. For example, the Department of Education has estimated that for the 1993-94 school year, in 24 states about $13.9 billion was spent to provide services to children with disabilities under IDEA, yet only 7 percent of these costs were supported by federal funds. On the other hand, a few programs are fully- or nearly fully-funded—for example, in school year 1992-93 the federal subsidy for a free lunch under the National School Lunch Program was approximately equal to the median cost of producing a school lunch.[4]

School Districts Are Also Subject to State and Local Requirements and Judicial Decisions

In addition to federal requirements, school districts are also subject to requirements imposed by state and local governments and by the courts. In fulfilling their role in administering federal programs such as Title I and IDEA, state governments may place additional requirements on school districts. For example, in one state we visited, the state Department of Education requires school districts to use state-approved forms for special education students' Individual Education Plans (IEPs).[5] When a state requirement arises from the implementation of a federal law or regulation, it becomes especially hard to distinguish a state requirement from a federal one. Officials from most of the school districts we visited told us that they could not tell or did not know which requirements were state and which were federal, and education experts told us that this was probably

[3]Title VII of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, or national origin in programs or activities that receive federal assistance. The Department of Education has interpreted this requirement to prohibit the denial of equal access to education because of a student's limited proficiency in English.

[4] Abt Associates, *School Lunch and Breakfast Cost Study*, prepared under contract to the Food and Nutrition Service, U.S. Department of Agriculture, October, 1994.

[5]An Individual Education Program (IEP) is a federally-required document that specifies, for each special education student, the student's goals for the coming year and the special education and related services the student will receive to assist in meeting these goals.

true of most districts nationwide. State education agencies also impose requirements in areas unregulated by the federal government, such as curriculum and teacher certification. In addition, local requirements such as building codes can affect school district operations, and some school districts are also affected by judicial decisions on matters such as desegregation and special education.[6]

Implementation Issues Relating To Federal Requirements Affect How School Districts Plan, Fund And Operate Educational Programs

No single requirement could clearly be identified as the primary factor behind the challenges school districts encounter in implementing federal requirements. Instead, school districts face a large number of implementation issues that affect all phases of their operations–financial and program planning, managing funding, and implementing educational efforts.

Information on Federal Requirements Is Essential for Financial and Program Planning

School district officials need to have a detailed knowledge of what is required in order to draw up their budgets, engage in long- and short-term financial planning, and plan and design educational programs in compliance with federal laws and regulations. Knowledge of the flexibility available to school districts can also be important in designing quality educational programs. Without such knowledge, district staff may take only very conservative interpretations of what is allowed, believing they have less flexibility than they actually do. Similarly, a lack of information may lead some district officials to mistake long-standing practices for legal requirements, making them more reluctant to adopt new educational initiatives.

Despite this compelling need, education experts, school district representatives, and state officials agreed that districts often have incomplete information about federal requirements and the flexibility available in implementing these requirements. For example, accessibility experts have observed that local officials sometimes misunderstand the accessibility requirements, and that some accessibility expenditures by local schools may not be required under federal law. Similarly, the

[6]For more information on state requirements and on three states' efforts to provide more flexibility with respect to state-imposed requirements, see *Regulatory Flexibility in Schools: What Happens When Schools Are Allowed to Change the Rules?* (GAO/HEHS-94-102, Apr. 29, 1994).

Superintendent in one district we visited responded to our question about federal waivers by saying "I just never thought it was possible."[7]

School District Staff Cite Limited Funds to Implement Certain Federal Requirements

School district officials frequently expressed agreement with the purposes behind various federal requirements. For example, many program directors and superintendents told us that they agreed that districts should provide services to special education students and take precautions to ensure safety and health. However, district staff also told us that paying for these requirements strained their limited discretionary funds and (in some cases) meant they had to cut back on other educational initiatives. Five federal requirements were mentioned most frequently in this context:

- Special education, which can require districts to provide specialized
- educational and related services such as smaller class sizes, individualized programs and assistive technology;
- Asbestos abatement or removal when renovating or repairing school buildings;
- Accessibility—that is, adding features such as ramps, elevators and accessible bathrooms to remodeled or existing buildings;[8]
- Underground Storage Tanks (USTs)—that is, upgrading certain USTs to meet EPA requirements for spill protection and corrosion prevention;
- Nutrition Standards for School Meals–although USDA analysts have reported that the new requirements can be met without increasing the cost of the meal, several food service directors we interviewed disagreed, citing higher prices for low-fat alternatives such as 1 percent milk.

Many school district officials also told us that the administrative processes necessary to implement federal programs can be resource-intensive. For example, food service directors told us that distributing, collecting, and

[7] In 1997, the Department of Education's Inspector General also reported that many districts had insufficient information to take advantage of the flexibility offered by federal waivers. See U.S. Department of Education, Office of Inspector General, *State and Local Education Agencies Need More Technical Assistance to Take Full Advantage of the Flexibility Provisions of Title XIV of the Improving America's Schools Act*. Report No. 04-70001, August 1997.

[8] Our results here are consistent with our December 1995 report on school accessibility. Based on the survey results from that study, schools could have been expected to spend $5.2 billion on accessibility in the 1995-98 period. Like the district officials we interviewed, school officials in that study reported that many schools were not made accessible because of a lack of funding. See *School Facilities: Accessibility for the Disabled Still An Issue*. (GAO/HEHS-96-73, Dec. 29, 1995).

processing applications for free and reduced-price lunches demands a lot of resources for the first few months of each school year, which is the busiest time for all school staff. To ensure that only eligible children receive benefits, districts must obtain (and for a sample of cases, verify) family income information. In the districts we visited, the food service staff used several strategies (such as obtaining data on food stamp households) to try and limit the amount of work created by lunch applications, but some districts still had to hire additional workers to make sure that disadvantaged children could promptly begin receiving free breakfast and/or lunch.

To a lesser extent, accounting, reporting and financial requirements also occupy districts' administrative resources. Staff from 25 percent of the districts we interviewed by telephone identified certain accounting and reporting requirements as problematic, as did staff at two of the districts we visited. In our site visits, we found that many of the specific requirements district staff told us about were state, not federal, requirements. For example, federal regulations generally allow for equipment purchases up to $5,000 without additional documentation, but one state we visited imposed a more stringent threshold of $500, increasing districts' paperwork requirements. Some district representatives also expressed dissatisfaction about requirements that place restrictions on how they raise and use funds. For example, several managers we interviewed criticized provisions of the 1986 Tax Reform Act that are designed to prevent state and local governments from using funds from the sale of tax exempt bonds to acquire higher yielding investments. However, not all district managers felt this way. One Business Manager in a small district, for example, told us that he supports these types of requirements because they are necessary to prevent fraud and abuse.

Certain Federal Requirements Can Create Logistical and Management Challenges for School Districts

Although district officials often agreed with the overall purpose of federal programs, they frequently criticized certain specific procedural requirements imposed under these programs. Many of the district staff we interviewed expressed frustration with the logistical and management challenges they face in trying to comply with certain federal requirements. Strict procedural timelines, we were told, can pose challenges in scheduling meetings, obtaining information and processing paperwork. For example, school districts are required to hold an IEP meeting within 30 days of determining that a child needs special education and related services and to offer services in accordance with an IEP within 60 days (or other "reasonable period of time") from the agency's receipt of parental consent to an initial evaluation. Special education directors and

superintendents told us that they sometimes have trouble meeting these timelines.

Some school districts are also facing shortages of qualified personnel to provide federally-mandated services. For example, in a Department of Education study of services to students with limited English proficiency, over half of school districts reported having difficulty hiring bilingual or English as a Second Language teachers.[9] In one state, staff in several districts told us that they had a hard time finding not only certified special education teachers, but also providers of certain related services such as physical therapy and speech pathology. Similarly, the facilities manager in one rural school district told us that there were very few accredited asbestos contractors in the area, and he believes that they can charge very high prices because of the lack of competition.

Recent Flexibility Initiatives Are Not Structured To Address School Districts' Major Concerns

In the past several years the Congress and the Department of Education have attempted to provide additional flexibility to school districts through waivers, financial flexibility provisions, and consolidated planning. Waivers—temporary exemptions from certain specific federal requirements—can allow districts to suspend some federal program rules.[10] Several financial flexibility mechanisms allow school districts additional flexibility in the use of certain federal program funds. For example, one provision can allow districts to shift a limited amount of funds from one federal program to another, with the permission of the state education agency. Finally, a consolidated planning process allows school districts to submit one plan or funding application that covers several federal programs, rather than prepare separate documents for each program.

These initiatives are generally not structured to address the information, funding, and management issues that school districts identified as their primary concerns. First, rather than simplifying the necessary information on federal requirements, these flexibility initiatives actually expand the amount of information school district officials need. To take advantage of these provisions, district staff must know that they exist and learn how to use them. Because these initiatives are program-specific, and each applies

[9]See *Descriptive Study of Services Provided to Limited English Proficient Students*, U.S. Department of Education, September 1996.

[10]In most states, school districts can obtain waivers by applying to the Department of Education. In 12 "Ed-Flex" states, however, the Department has delegated this waiver authority to the state education agency. In 1999, Congress passed legislation designed to increase the number of states potentially eligible for Ed-Flex status. For more information on Ed-Flex, see *Elementary and Secondary Education: Ed-Flex States Vary in Implementation of Waiver Process*, GAO/HEHS-99-17, Nov. 13, 1998.

to a different set of programs, district officials need detailed information on each provision—information that is often difficult to find.

Second, flexibility initiatives do not address school districts' funding concerns. By design, these initiatives cannot increase the flow of funds to school districts nor can they relieve districts of their major financial obligations. The areas covered by the flexibility initiatives are not those that school districts cited as especially costly—special education, environmental, and building accessibility requirements. Similarly, the flexibility initiatives can have only a limited impact on school districts' administrative costs because they do not cover several key program areas such as food service and special education. However, waivers and consolidated planning can help some districts streamline processes in other administrative areas, including the process of applying for federal funds.

Third, the limited coverage of flexibility initiatives also precludes them from addressing several of the logistical and management concerns that school districts identified as key issues, such as meeting timelines for evaluating special education students and finding qualified personnel (such as bilingual teachers or environmental contractors) to implement key federal programs. For example, because the flexibility initiatives do not extend to special education requirements, districts cannot use these provisions to address their concern with timelines.

In conclusion, the findings of this study suggest 4 major lessons to be considered in refining existing federal flexibility initiatives and designing new ones. First, because school districts' key concerns are wide-ranging, rather than centered on a single program or issue, federal flexibility initiatives must be multifaceted and reach across federal programs to successfully address districts' needs. Second, adequate information is crucial to districts' efforts to successfully implement federal programs and take advantage of flexibility efforts. Third, because states play a major role in overseeing and administering federal programs, state education agencies must be able and willing to help school districts implement flexibility initiatives if these efforts are to succeed. Finally, Congress and the Department of Education face potential conflicts between local officials' desire for flexibility and the important purposes underlying federal programs and mandates. Broadening the scope of federal flexibility efforts raises concerns about whether the underlying goals of federal programs can be achieved without the guidance of specific regulatory provisions.

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